

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**STEPHANIE DOUBRAVA**  
Claimant

VS.

**CRAFT WORLD INTERNATIONAL**  
Respondent

AND

**CHUBB GROUP OF INSURANCE**  
Insurance Carrier

Docket No. 150,808

## ORDER

Claimant appeals from a preliminary hearing Order dated April 9, 1996. The Order, entered by Administrative Law Judge Bruce E. Moore, granted claimant's request for medical benefits and attorney's fees but limited the award for medical mileage and attorney fees to those incurred after October 13, 1995.

## ISSUES

Claimant lists the following issues for review by the Appeals Board:

1. Whether the Administrative Law Judge exceeded his jurisdiction by failing to allow claimant mileage for medical visits prior to October 13, 1995.
2. Whether the Administrative Law Judge exceeded his jurisdiction by failing to allow claimant's attorney, Michael S. Holland, attorney fees for actions taken on behalf of the claimant prior to October 13, 1995.

On February 7, 1992, claimant settled a claim for injury occurring on February 28, 1990. The settlement agreement called for medical treatment to be left open for one year with the treatment to be provided at Salina StatCare. After the one year, future medical was to be available only upon proper application and approval by the Director.

After the one year had run, claimant filed an application for preliminary hearing accompanied by a motion for additional medical benefits. There have been several hearings since, all relating to additional medical treatment. At the last hearing on April 9, 1996, the Administrative Law Judge ordered payment of medical expenses and medical mileage incurred after October 13, 1995. He also awarded attorney's fees to claimant's counsel for services rendered after October 13, 1995.

The Appeals Board concludes that the issues relating to medical expenses are not subject to review by the Appeals Board at this time. The issue relating to those expenses was whether the medical care was "a maintenance expense" as opposed to care to "cure and relieve." The issue arose in the context of a preliminary hearing and is not jurisdictional. The Appeals Board authority is limited to the jurisdictional issues on appeal from preliminary hearing orders. K.S.A. 44-551 and K.S.A. 44-534a, as amended.

The issue relating to the attorney's fees, on the other hand, is treated as a final order. It is, therefore, subject to review by the Appeals Board. In this case the order is limited to attorney's fees for services rendered after October 13, 1995. The Administrative Law Judge did so because no claim was made for attorney's fees until that date. The record reflects, however, that claimant's counsel has requested attorney's fees for all services rendered subsequent to the initial settlement. The Appeals Board finds no authority for limiting the award to these services after the application for attorney's fees. In fact, K.S.A. 44-536 provides that fees shall be awarded except in those cases where additional benefits are awarded. The Appeals Board, therefore, concludes that the limit of attorney's fees to services rendered after October 13, 1995, should be reversed. This claim is remanded for further proceedings including an award of reasonable attorney's fees for all services rendered subsequent to the resolution of the initial original claim for compensation. K.S.A. 44-536.

**WHEREFORE**, the Appeals Board finds that the Order of the Administrative Law Judge relating to medical expenses and medical mileage should remain in full force and effect. That portion of the Order relating to attorney's fees is hereby remanded for consideration and award of attorney's fees including those services rendered prior to October 13, 1995.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 1996.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: M. John Carpenter, Great Bend, KS  
Kirby Vernon, Wichita, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director